and further that the regulation is of a temporary duration only. It may be added that if the landlord desires the house for his own use he can get it under the rent legislation, and it is difficult to sympathize with landlords for the loss of the right to let houses remain empty, rather than to accept reasonable returns from the property. Widespread objection to the rent decisions has been made, particularly in the dissenting opinions on the ground of danger of possible extensions of the decisions. Do they really mean, however, that shoelaces and chewing-gum are now subject to regulation or that even rentals may be regulated in future under any and all conditions? The Supreme Court has tried hard to say that it does not, that there really is some significance to the phrase "business clothed with a public interest." It is said that the regulation is justified because housing is a necessary of life, and a shortage exists. Such conditions obviously have not always existed nor will they always exist. Is the court entirely helpless when the legislature says that they do exist? Courts declare limitations of policy in other cases, and clearly can do so here. An outstanding feature of the recent decisions is the defection of Mr. Justice McKenna who rendered the dissenting opinions. "If such power exist what is its limit," he asks, "and what its consequences? * * * The wonder comes to us, what will the country do with its new freedom?" No better answer can be made than that which the Justice himself has already given in *German Alliance Insur. Co.* v. *Lewis, supra.* "But it is said that the reasoning of the opinion has the broad reach of subjecting to regulation every act of human endeavor and the price of every article of human use. We might without much concern leave our discussion to take care of itself against such misunderstanding or deductions. * * * Against that conservatism of the mind which puts to question every new act of regulating legislation and regards the legislation as invalid or dangerous until it has become familiar, government—state and national—has pressed on in the general welfare and our reports are full of cases where in instance after instance the exercise of regulation was resisted and yet sustained against attacks asserted to be justified by the Constitution of the United States. The dread of the moment having passed, no one is now heard to say that rights were restrained or their constitutional guarantees impaired." See also 19 MICH. L. REV. 74.

CONSTITUTIONAL LAW—STATES AND FEDERAL GOVERNMENT—CO-OPERATION IN WAR-TIME LEGISLATION.—Defendant was convicted for violation of a Minnesota statute making it unlawful to interfere with, or discourage the enlistment of men in the military or naval service of the United States or the state, or to advocate non-participation in the carrying on of the war. The case came before the Federal Supreme Court through proceedings in error, after the Supreme Court of Minnesota had affirmed the conviction. The federal question presented was whether or not the power of Congress to legislate concerning the same subject-matter was exclusive. *Held,* statutes in aid of the federal legislation, and not in conflict therewith can stand,

and the Minnesota statute falls within the class. *Gilbert* v. *Minnesota,* (U. S. S. Ct., Adv. Opinions, Jan. 15, 1921, p. 146).

The decision is featured by a strong dissent on the part of Mr. Justice Brandeis chiefly on the ground that Congress has exclusive power to legislate concerning the Army and Navy of the United States, and to declare war. He concludes, therefore, that the field is closed to the states even in the absence of federal legislation, and that here, in any event, the Federal Espionage Law constituted such an entrance into the field as to preclude state action. The majority of the court holds that technical considerations and language cannot govern; that state and national interests are so interwoven in carrying on war as to give the former the power to render legislative aid. The decision seems sound. The principles governing the exclusiveness of federal power in particular cases have been worked out to some extent in the fields of commerce and bankruptcy. It was early settled in both that the grants to the Federal Government were not exclusive in all cases, in the absence of federal action. *Sturges* v. *Crowninshield,* 4 Wheat. 122; *Cooley* v. *Board of Wardens,* 12 How. 299. The view sanctioned, was that the grant without action is exclusive only where uniformity is required. In the field of bankruptcy there seems to have been considerable doubt at first as to whether any state legislation remained operative after the passage of a federal act. 45 L. R. A. 177. The rule now seems settled, however, that state laws may stand even though the federal act covers the same ground if they do not conflict therewith, and are in aid of the general policy. *Stellwagen* v. *Clum,* 245 U. S. 605. A partial entrance into the field under the power to regulate commerce does not put an end to state legislation where there is no need for uniformity. *Reid* v. *Colorado,* 187 U. S. 137. The principle which should govern seems clear. Both state and federal governments have no purpose but to promote welfare, and ordinarily what promotes the welfare of one does so for the other. Where this ceases to be true, the line should be drawn, and only there. A statute prohibiting the debasement of the flag to trade uses, has been sustained on the ground that fostering a feeling of patriotism toward the nation necessarily promotes the welfare of the state. *Halter* v. *Nebraska,* 205 U. S. 34. But where uniformity is absolutely essential, state and national welfare in the narrow sense, cease to be identical, and the former must of course yield. There the absence of any legislation by Congress may well be made the basis for a presumption that the paramount legislative policy is against it. Elsewhere, as in the principal case, the power of the states should be checked only when there is a real conflict, not a mere occupation of the same field.

CONSTITUTIONAL LAW—VALIDITY OF ORDINANCE TO PREVENT "SCALPING" OF THEATRE TICKETS.—A San Francisco ordinance makes it unlawful to engage in the business of re-selling theatre tickets without a license, costing $300.00 a month. Having been arrested for violating this ordinance, Dees sought his release by a writ of habeas corpus, on the ground that the ordinance was unconstitutional. *Held,* the ordinance as a revenue measure is unreasonable